IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Crl.MC.No. 3546 of 2007()

CRIME NO.193/1994 OF CHADAYAMANGALAM POLICE STATION

PETITIONER: ACCUSED

PRAKASH,
HOUSE NO.49, 4 CENT COLONY, CHANTHA KUNNU,
PANGODE, NEDUMANGADU, THIRUVANANTHAPURAM.

BY ADV. SRI.V.PREMCHAND

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
CHADAYAMANGALAM POLICE STATION.

BY P.P.SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3546 OF 2007

Dated this the 27th day of November, 2007

O R D E R

The petitioner faces indictment in a prosecution under section 379 IPC. The crime was registered in 1995. After investigation, final report was filed and cognizance has been taken in 1995. The case has been transferred to the list of long pending cases in 1997 consequent to the alleged non-appearance of the petitioner. The petitioner now finds warrants of arrest issued by the learned Magistrate chasing him. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He had no knowledge of the pendency of the proceedings. In fact, the petitioner has faithfully appeared before the learned Magistrate all along as accused in another case. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances

under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George Vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

3. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

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